

May 24, 2010

Mary Rupp, Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428



Delivered Via E-Mail: regcomments@ncua.gov

Re: Comments on NCUA's Proposed Rule 742, Regulatory Flexibility Program

Dear Ms. Rupp:

On behalf of Florida Commerce Credit Union ("Florida Commerce") representing approximately 36,484 members, we are pleased for the opportunity to provide this response on behalf of our members to the proposed amendments on NCUA's Proposed Rule 742, Regulatory Flexibility Program. Our comments are as follows:

A. Elimination of the Reg-Flex Waiver of the Requirement for Personal Guarantees.

This proposal would eliminate the ability in §723.7(b) of a Reg-Flex credit union to forego obtaining personal guarantees of the principals of a borrower. Although the rule maintains the ability of a credit union to seek a waiver from the guarantee requirement on a case by case basis, we do not believe this amendment is necessary or warranted.

While we agree that obtaining a borrower's personal guarantee as a general rule is a good policy and enhances the likelihood of repayment in most circumstances, there are times when requiring a guarantee of a principal guarantee is not necessary or in fact, may impede the ability of an institution to make an otherwise good loan. The NCUA suggests that increasing losses and delinquencies in MBL portfolios is the reason stated for eliminating this rule. It is unclear to us the nexus between the Reg-Flex waiver and increasing losses in MBL portfolios that would justify this particular modification to the rule.

As an alternative to eliminating the waiver option, we would suggest requiring documentation by the credit union justifying their reason for not requiring a guarantee of the principal. This would allow the NCUA to look at a credit union's reasoning behind the loan, and would allow the NCUA to determine if a credit union was exercising sound underwriting principals when waiving a guarantee of a principal. We believe eliminating the ability outright unnecessarily restricts a credit union's ability to make competitive commercial loans.

B. Elimination of the Ability to Exceed the 5% Cap on Investments in Fixed Assets.

This proposal eliminates the ability of a qualified credit union to exceed the §701.36 prohibition of investing in fixed assets in the aggregate of more than five percent of a credit unions shares and retained earnings.

Mary Rupp, Secretary of the Board
National Credit Union Administration
May 24, 2010
Page 2

We believe this proposal is unwarranted and will make it difficult for well run credit unions to do such basic items such as branching, invest in technology and upgrades, or otherwise grow and expand. We believe as an alternative, NCUA should consider placing an upper limit on those taking advantage of the waiver such as 10%. We would again propose that the NCUA require the credit union to document its decision to exceed the 5% cap. This will permit the NCUA to look at how the credit union is managing its risk and determine if exceeding the limit is warranted.

Further, being from a state with one of the highest foreclosure rates, because you include OREO property in the fixed asset ratio, it is entirely conceivable that several credit unions will be pushed over the cap for at least a temporary basis while the economy turns around. Eliminating the flexibility during this current economic environment would seem to be a harsh approach without also simultaneously re-examining the level of the 5% cap itself.

C. Stress Testing of Investments.

This proposal requires a credit union to stress test its securities. We sympathize with the NCUA's concern that credit unions are incurring additional risk by investing in long-term instruments to increase yield and improve earnings. This results in credit unions purchasing investment products that they do not fully understand, thus increasing interest rate and liquidity risk. However, eliminating the Reg-Flex exemption entirely in this area may not be warranted.

We believe the initial intent of the Reg-Flex regulations were to provide an incentive to provide some discretion to credit unions with lower risk relative to their overall capital position. We further believe in the concept and the incentive that it builds into the system. It further provides the opportunity to acknowledge that a well capitalized institution has demonstrated the ability to appropriately manage their risk. We hope the NCUA will not abandon these concepts solely on the basis of the current economy.

Thank you for the opportunity to comment on this proposed regulation.

Sincerely,



Cecilia D. Homison
President/CEO